

# Exhibit D

UNITED STATES GOVERNMENT

# Memorandum

Northeast Regional Office, Philadelphia, PA  
FEDERAL BUREAU OF PRISONS

DATE: May 10, 2004

## REPLY TO

ATTN OF: Henry J. Sadowski, Regional Counsel

SUBJECT: Your Administrative Tort Claim, No. TRT-NER-2004-00857

TO: Tony Coster, Reg. No. 31805-060  
FMC Rochester

Your Administrative Tort Claim, No. TRT-NER-2004-00857, properly received in this office on December 8, 2003, has been considered for settlement as provided by the Federal Tort Claims Act, 28 U.S.C. § 2672, under authority delegated to me by 28 C.F.R. § 543.30. You seek compensatory damages in the amount of \$6,000,000.00 for an alleged personal injury. Specifically, you claim staff at the Federal Correctional Institution (FCI), McKean, Pennsylvania, failed to properly diagnose your cancer for three years, resulting in your terminal condition.

After careful review of this claim, I have decided not to offer a settlement. Investigation reveals you arrived at FCI McKean with a history of right inguinal hernia since 1993. On October 19, 2001, you first complained your hernia was getting larger. A hernia belt was provided. Your condition continued to be monitored and surgery was denied on two occasions because the hernia was reducible and pre-existing since 1993. You were provided pain medication, placed on work and sports restriction and approved for a lower bunk. On February 10, 2003 you were examined by a surgeon who recommended exploration and repair surgery. You underwent hernia surgery on March 13, 2003, at which time an unusual tumor structure was discovered. Tests revealed you have a very rare type of cancer. You were transferred to a medical facility for continued treatment. The medical record indicates you received appropriate medical treatment for the complaints you presented, consistent with community standards. You fail to show you have experienced a personal injury as the result of negligence on the part of any Bureau of Prisons' employee.

Accordingly, your claim is denied. If you are dissatisfied with this decision, you may seek reconsideration from this office or bring an action against the United States in an appropriate United States District Court within six (6) months of the date of this memorandum.

cc: James F. Sherman, Warden, FCI McKean  
Constance Reese, Warden, FMC Rochester

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ACKNOWLEDGMENT OF RECEIPTDENIAL OF TORT CLAIM

I, Tony Coster, Reg. No. 31805-060, hereby acknowledge receipt this 25<sup>th</sup> day of June, 2004, of the May 10, 2004, memorandum from Henry J. Sadowski, Regional Counsel, Northeast Region, Federal Bureau of Prisons, informing me of the denial of my administrative tort claim (TRT-NER-2004-00857).

M. Coster  
Signature

Witnessed this 25<sup>th</sup> day of June, 2004.

Angela Buege  
Staff Witness

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